

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Communications Assistance for Law)	ET Docket No. 04-295
Enforcement Act and Broadband Access and)	
Services)	RM-10865

**REPLY COMMENTS (OPPOSITION) OF
THE FLORIDA STATE UNIVERSITY**

TO: THE COMMISSION

The Florida State University, located in the State capitol city of Tallahassee, Florida, respectfully submits comments in response to the Further Notice of Proposed Rulemaking adopted in the above-captioned docket.¹ The Florida State University endorses the comments filed by the Higher Education Coalition and submits this reply based on its own experience and circumstances as a publicly held university in the State of Florida.

(1) the FCC should issue language to clarify that the campus and regional networks operated by colleges, universities, and research institutions are exempt or may request exceptions from CALEA; (2) The Florida State University's experience with law enforcement surveillance requests over the last decade indicates that existing procedures are more than adequate to ensure prompt and adequate compliance with any lawful surveillance request by a law enforcement agency; and (3) applying CALEA to The Florida State University's broadband network within the next 18 month period (May 7, 2005) would dramatically and un-necessarily add significant financial burdens upon already fiscally constrained public institutions of higher education.

¹ *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-295, FCC 05-153 (rel. Sept. 23, 2005) ("*Order*").

1. The FCC Should Issue Clarifying Language That Higher Education Networks Are Exempt From CALEA.

Our review and reasonably prudent interpretation of CALEA causes us to reach a conclusion that the Florida State University networks and other broadband networks operated by other institutions of higher education and research are not subject to the provisions of CALEA as the statute expressly exempts “equipment, facilities, or services that support the transport or switching of communications for private networks.” 47 U.S.C. § 1002(b)(2)(B).

The Commission should issue additional clarifying language that only commercial entities are covered by the language in footnote 100, in light of the clear statutory exemption of private network operators. Alternatively, we ask the Commission to use its discretionary authority under Section 102(8)(C)(ii) of CALEA to exempt institutions of higher education and research from compliance with the forthcoming assistance-capability requirements. Such an exemption is necessary to remain congruent with Congressional intent and desire not to impose additional financial burdens upon our institution nor upon our citizenry as a whole.

We oppose the suggestion by the Department of Justice that “no exemptions are appropriate based on the current record,” DOJ Comments at 11 and endorse the Higher Education Coalition definition of a narrow class of private network operators that should be exempt from CALEA for all the reasons contained in the Coalition’s comments.

2. The Florida State University’s Experience with Surveillance Requests Demonstrates the Absence of Any Need to Impose CALEA Requirements on Higher Education Networks.

The Florida State University’s experience with law enforcement surveillance requests over the last decade indicates that existing compliance procedures are more than adequate to ensure prompt compliance with any lawful surveillance request by a law enforcement agency. In every instance of discovery or investigation related to law enforcement surveillance requests,

Florida State University has established effective, efficient partnerships with law enforcement personnel, and will continue to do so in the future.

The Florida State University experiences with these instances clearly provides evidence to support the comments filed by the Higher Education Coalition for compliance with lawful surveillance requests and validates the premise that new assistance-capability requirements proffered under CALEA do not serve the best interests of either party.

3. A Broad Application of CALEA Would Impose Significant Burdens on the Florida State University and Would Necessitate Diverting Funds from Its Critical Educational Mission.

As stated previously, we view that CALEA does not apply to the Florida State University private networks under the most reasonably prudent reading and interpretation of the *Order*. Should the Commission apply the language in footnote 100 of the *Order* that institutions of higher education such as Florida State University must comply with some or all assistance capability requirements, such a ruling would be made without provisions for specifications for what constitutes compliance and add to the continuum of unfunded mandates levied upon already fiscally constrained institutions of higher education. We envision, if enacted as written, various compliance scenarios ranging from complete replacement of routers and switches (costing in the millions) to working directly with trusted network administrators for each particular situation. If it is the former, we must carefully assess the fiscal impact of this rule as it would impose significant burdens on Florida State University and divert critical funds from our teaching, learning, research and applied public service missions. We strongly request that the time for compliance not be set until the specifications and accompanying costs are defined.

We support and endorse the Higher Education Coalition proposal that any mandated assistance-capability requirements must be phased in over a five-year period as existing

equipment is replaced in the normal course of events; yet also view if that alternative proposal is adopted, the Commission should go back to Congress to request CALEA compliance funding through new appropriations to institutions of higher education.

CONCLUSION

The Florida State University respectfully requests that the Commission clarify that private networks operated by higher education and research institutions in direct support of their teaching, learning, research and applied public service missions are not subject to CALEA, or alternatively grant an exemption under Section 102(8)(C)(ii) of CALEA. We urge the Commission to suspend the compliance date until the mandated assistance-capability requirements are specified and also that the Commission work to address a currently unfunded mandate through new appropriations.

Respectfully submitted,

A handwritten signature in cursive script, reading "Larry D. Conrad", written in dark ink. The signature is fluid and stylized, with a long horizontal line extending from the end of the name.

Larry D. Conrad
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December 12, 2005